



ITEM NO. 2

STAFF REPORT

DATE: JANUARY 23, 2012
TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: ROD FOSTER, CITY MANAGER
BONNIE JOHNSON, MANAGEMENT SERVICES DIRECTOR
PREPARED BY: DEAN DERLETH, CITY ATTORNEY
DELMAR WILLIAMS, AGENCY COUNSEL
SUBJECT: ADOPTION OF ONE OF THE FOLLOWING CITY RESOLUTIONS:
(1) ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY FOR THE CITY OF COLTON PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE; (2) ELECTING NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS AND SELECTING THE COLTON HOUSING AUTHORITY AS THE ENTITY TO ASSUME THE HOUSING ASSETS AND FUNCTIONS; OR (3) ELECTING NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS AND SELECTING THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AS THE ENTITY TO ASSUME THE HOUSING ASSETS AND FUNCTIONS

RECOMMENDED ACTION

It is recommended that the City Council adopt one of the following versions of Resolution No. R-02-12:

- (1) Electing to retain the housing assets and functions previously performed by the Redevelopment Agency for the City of Colton pursuant to part 1.85 of division 24 of the California Health and Safety Code;
- (2) Electing not to retain such housing assets and functions and selecting the Colton Housing Authority as the entity to assume the housing assets and functions;
- (3) Electing not to retain such housing assets and functions and selecting the Housing Authority of the County of San Bernardino as the entity to assume the housing assets and functions.

GOAL STATEMENT

The proposed action will allow one of the following results to occur: (1) the City of Colton ("City") to take on the responsibility of retaining the housing assets and functions of the Redevelopment Agency for the City of Colton ("Agency") upon the Agency's dissolution under AB 1X 26, and by doing so, permit the City to maintain some local control over those assets and functions, but also the associated cost as well; (2) the Colton Housing Authority ("Authority") takes on the responsibility of retaining the housing assets and functions, which permits the City to maintain some local control over the assets and functions, but not be directly affected by the associated costs; or (3) the Housing Authority of the County of San Bernardino ("County Housing Authority") takes on the responsibility of retaining the housing assets and functions, which takes local control over the housing assets and functions away from the City, but also removes the associated costs.

BACKGROUND

On June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 ("AB 26") and Assembly Bill 1X 27 ("AB 27") were enacted, dissolving the Agency, unless the City participated in the "Alternative Voluntary Redevelopment Program" established by AB 27 and paid an annual "community remittance" payment to the County of San Bernardino. On July 18, 2011, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement of AB 26 and AB 27, pending the Supreme Court's determination of the legality of AB 26 and AB 27. On August 11, 2011, the Supreme Court issued an order in the Legal Action granting a partial stay of AB 26, exclusive of Health and Safety Code Sections 34161 through 34167 (which suspend new redevelopment activity), and a complete stay of AB 27, such that the City and the Agency could not pursue new redevelopment activity under the Alternative Voluntary Redevelopment Program (collectively, "Stay"). On August 17, 2011, the Supreme Court modified the Stay such that the Stay no longer affected Health and Safety Code Sections 34167.5 through 34169.5, in addition to California Health and Safety Code Sections 34161 through 34167, or California Health and Safety Code Sections 34194(b)(2). On December 29, 2011, the Supreme Court issued its opinion in the Legal Action, upholding AB 26, invalidating AB 27, extending certain statutory deadlines under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment agencies throughout the State effective February 1, 2012.

ISSUE/ANALYSIS

Health and Safety Code section 34176, enacted by AB 26, provides that the City may elect to retain the housing assets and functions previously performed by the Agency, upon the Agency's dissolution. If the City retains such functions and assets, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Agency's Low and Moderate Income Housing Fund ("Housing Fund"), shall be transferred to the City. Pursuant to Health and Safety Code section 34176(b), if the City elects not to retain the Agency's housing functions and assets,

all rights, powers, duties, and obligations, excluding any amounts on deposit in the Agency's Housing Fund, shall be transferred as follows: (1) where there is no local housing authority in the territorial jurisdiction of the Agency, to the Department of Housing and Community Development; (2) where there is one local housing authority in the territorial jurisdiction of the Agency, to that local housing authority; (3) where there is more than one local housing authority in the territorial jurisdiction of the Agency, to the local housing authority selected by the City.

Although AB 26 is ambiguous about the extent of the "rights, powers, duties and obligations" pertaining to housing functions that the public body retaining the housing assets and functions of the Agency will assume, these responsibilities likely include some or all of the following: the provision of production, inclusionary or replacement affordable housing units, development of affordable housing units in accordance with community income demographic restrictions, consultation with any project area committee formed by the dissolved Agency, and any required affordable housing monitoring and reporting.

The City should be aware that the potential benefit to the entity retaining the housing assets and functions of the Agency is that such entity would be able to control and be responsible for the housing needs within the former Agency's territorial jurisdiction. However, it is possible that this control may be of limited benefit because such entity will not retain the funds on deposit in the Agency's Housing Fund and there is no identified continuing funding source for these affordable housing activities in future years.

If the City elects not to retain the Agency's housing assets and functions, the Agency's housing functions and assets shall pass to a local housing authority of the City's selection within the territorial jurisdiction of the Agency. At this time, the local housing authorities within the territorial jurisdiction of the Agency are the Authority and the Housing Authority of the County of San Bernardino. If the City selects the Authority, the housing assets and functions shall stay under local control, as opposed to being controlled by the Housing Authority of the County of San Bernardino. In addition, the Authority, not the City, will have the responsibility of obtaining funding for the housing functions. If the City selects the Housing Authority of the County of San Bernardino, the City will lose all control over the housing assets and functions, but it will also avoid the associated responsibility of funding the housing functions.

FISCAL IMPACT

If the City elects to retain the housing assets and functions of the Agency, the City will be responsible for funding such functions.

No City funds are involved with the election of the City to not retain the housing assets and functions of the Agency.

ALTERNATIVES

The City Council may wish to consider the following alternative:

1. Provide alternative direction to staff.

ATTACHMENTS

1. Version #1 of City Council Resolution No. R-02-12 (City retains housing functions)
2. Version #2 of City Council Resolution No. R-02-12 (City transfers to City Housing Authority)
3. Version #3 of City Council Resolution No. R-02-12 (City transfers to County Housing Authority)

RESOLUTION NO. R-02-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY FOR THE CITY OF COLTON PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the City Council of the City of Colton ("City") currently has five effective redevelopment projects: (1) the Cooley Ranch Redevelopment Project (adopting Ordinance No. 1478, dated July 29, 1975); (2) the Santa Ana River Redevelopment Project (adopting Ordinance No. 1632, dated December 29, 1982); (3) the West Valley Redevelopment Project (adopting Ordinance No. O-10-86, dated July 15, 1986 and its amendment adopting Ordinance No. O-9-87, dated June 30, 1987); (4) the Mt. Vernon Corridor Redevelopment Project (adopting Ordinance No. O-8-87, dated June 30, 1987); and (5) the Rancho/Mill Redevelopment Project (adopting Ordinance No. O-13-94, dated July 5, 1994) (collectively and as amended, the "Project Areas"); and

WHEREAS, the Redevelopment Agency for the City of Colton ("Agency") has been engaged in activities to redevelop the Project Areas pursuant to the provisions of the California Community Redevelopment Law (Health & Saf. Code, § 33000 et seq.); and

WHEREAS, on June 28, 2011, the State of California enacted California Health and Safety Code Section 34161 et seq. as part of the State's enactment of Assembly Bill 1X 26 ("AB 1X 26"), immediately prohibiting further redevelopment activity by redevelopment agencies and dissolving all redevelopment agencies in the State of California on October 1, 2011; and

WHEREAS, on June 28, 2011, the State of California also enacted California Health and Safety Code Section 34192 et seq. under Assembly Bill 1X 27 ("AB 1X 27"), providing communities the opportunity to continue redevelopment activity through their local redevelopment agencies by electing to participate in the "Alternative Voluntary Redevelopment Program"; and

1 **WHEREAS**, on July 18, 2011, a Petition for Writ of Mandate was filed in the
2 Supreme Court of the State of California in the matter of *California Redevelopment Association, et al.*
3 *v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), challenging the constitutionality of
4 AB 1X 26 and AB 1X 27, on behalf of cities, counties and redevelopment agencies and requesting a
5 stay of enforcement of AB 1X 26 and AB 1X 27, pending the Supreme Court's determination of the
6 constitutionality of AB 1X 26 and AB 1X 27; and

7 **WHEREAS**, on August 11, 2011, the Supreme Court issued an order in the Legal
8 Action granting a partial stay of California Health and Safety Code Section 34161 et seq., exclusive
9 of California Health and Safety Code Sections 34161 through 34167 (which prohibit all new
10 redevelopment activity), and a complete stay of California Health and Safety Code Section 34192 et
11 seq., such that the City and the Agency could not pursue new redevelopment activity under the
12 Alternative Voluntary Redevelopment Program (collectively, "Stay"); and

13 **WHEREAS**, on August 17, 2011, the Supreme Court modified the Stay such that the
14 Stay no longer affected California Health and Safety Code Sections 34167.5 through 34169.5, in
15 addition to California Health and Safety Code Sections 34161 through 34167, or California Health
16 and Safety Code Section 34194(b)(2); and

17 **WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the
18 Legal Action, upholding AB 1X 26, invalidating AB 1X 27, extending certain statutory deadlines
19 under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment
20 agencies throughout the State of California, effective February 1, 2012; and

21 **WHEREAS**, Health and Safety Code section 34176 provides that the City may elect
22 to retain the housing assets and functions previously performed by the Agency, but if the City does
23 not so elect, all rights, powers, assets, liabilities, duties, and obligations associated with the housing
24 activities of the Agency, excluding any amounts in the Low and Moderate Income Housing Fund,
25 shall be transferred as follows: (1) where there is no housing authority in the territorial jurisdiction of
26 the Agency, to the State of California Department of Housing and Community Development; (2)
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1 where there is one local housing authority in the territorial jurisdiction of the Agency, to that housing
2 authority; (3) where there is more than one local housing authority in the territorial jurisdiction of the
3 Agency, to the local housing authority selected by the City; and

4 **WHEREAS**, the City desires to elect to retain the housing functions of the former
5 Agency; and

6 **WHEREAS**, all other legal prerequisites to the adoption of this Resolution have
7 occurred.

8 **NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF COLTON DOES**
9 **HEREBY RESOLVE AND FIND AS FOLLOWS:**

10 **Section 1.** **Recitals.** The Recitals preceding this Resolution are true and correct and are
11 incorporated into this Resolution.

12 **Section 2.** **CEQA Compliance.** The determination and election made in this Resolution
13 do not commit the City to any action that may have a significant effect on the environment. As a
14 result, such approvals do not constitute a project subject to the requirements of the California
15 Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption
16 with the appropriate official of the County of San Bernardino, California, within five (5) days
17 following the date of adoption of this Resolution.

18 **Section 3.** **Election to Retain Housing Assets and Functions.** In accordance with
19 Health and Safety Code section 34176, and based on the Recitals set forth above, the City Council
20 hereby elects to retain the housing assets and functions previously performed by the Redevelopment
21 Agency for the City of Colton. Upon dissolution of the Redevelopment Agency for the City of
22 Colton pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as
23 otherwise provided under AB 1X 26, all rights, powers, assets, liabilities, duties, and obligations
24 associated with the housing activities of the Redevelopment Agency for the City of Colton shall be
25 transferred in accordance with Health and Safety Code sections 34176 and 34181 to the City of
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Colton.

Section 4. **Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and sign any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the County of San Bernardino Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution in accordance with AB 1X 26.

Section 5. **Severability.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that the City Council would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. **Certification.** The City Clerk shall certify to the adoption of this Resolution.

Section 7. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Sarah S. Zamora, Mayor

Eileen C. Gomez, City Clerk, CMC

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss.
3 CITY OF COLTON)

4 I, EILEEN C. GOMEZ, City Clerk of the City of Colton, do hereby certify that the
5 foregoing Resolution No. R-XX-12 was duly and regularly adopted by the City Council of the City of
6 Colton at a special meeting thereof on the 23rd day of January, 2012 and that the same was passed
7 and adopted by the following vote, to wit:

8 AYES:

9 NOES:

10 ABSENT:

11 ABSTAIN:
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14 Eileen C. Gomez, City Clerk, CMC
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RESOLUTION NO. R-XX-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON ELECTING NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY FOR THE CITY OF COLTON PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND SELECTING THE COLTON HOUSING AUTHORITY AS THE ENTITY TO ASSUME THE HOUSING FUNCTIONS AND ASSETS

WHEREAS, the City Council of the City of Colton ("City") currently has five effective redevelopment projects: (1) the Cooley Ranch Redevelopment Project (adopting Ordinance No. 1478, dated July 29, 1975); (2) the Santa Ana River Redevelopment Project (adopting Ordinance No. 1632, dated December 29, 1982); (3) the West Valley Redevelopment Project (adopting Ordinance No. O-10-86, dated July 15, 1986 and its amendment adopting Ordinance No. O-9-87, dated June 30, 1987); (4) the Mt. Vernon Corridor Redevelopment Project (adopting Ordinance No. O-8-87, dated June 30, 1987); and (5) the Rancho/Mill Redevelopment Project (adopting Ordinance No. O-13-94, dated July 5, 1994) (collectively and as amended, the "Project Areas"); and

WHEREAS, the Redevelopment Agency for the City of Colton ("Agency") has been engaged in activities to redevelop the Project Areas pursuant to the provisions of the California Community Redevelopment Law (Health & Saf. Code, § 33000 et seq.); and

WHEREAS, on June 28, 2011, the State of California enacted California Health and Safety Code Section 34161 et seq. as part of the State's enactment of Assembly Bill 1X 26 ("AB 1X 26"), immediately prohibiting further redevelopment activity by redevelopment agencies and dissolving all redevelopment agencies in the State of California on October 1, 2011; and

WHEREAS, on June 28, 2011, the State of California also enacted California Health and Safety Code Section 34192 et seq. under Assembly Bill 1X 27 ("AB 1X 27"), providing communities the opportunity to continue redevelopment activity through their local redevelopment agencies by electing to participate in the "Alternative Voluntary Redevelopment Program"; and

1 **WHEREAS**, on July 18, 2011, a Petition for Writ of Mandate was filed in the
2 Supreme Court of the State of California in the matter of *California Redevelopment Association, et al.*
3 *v. Ana Matosantos, et al.*, Case No. S194861 (“Legal Action”), challenging the constitutionality of
4 AB 1X 26 and AB 1X 27, on behalf of cities, counties and redevelopment agencies and requesting a
5 stay of enforcement of AB 1X 26 and AB 1X 27, pending the Supreme Court’s determination of the
6 constitutionality of AB 1X 26 and AB 1X 27; and

7 **WHEREAS**, on August 11, 2011, the Supreme Court issued an order in the Legal
8 Action granting a partial stay of California Health and Safety Code Section 34161 et seq., exclusive
9 of California Health and Safety Code Sections 34161 through 34167 (which prohibit all new
10 redevelopment activity), and a complete stay of California Health and Safety Code Section 34192 et
11 seq., such that the City and the Agency could not pursue new redevelopment activity under the
12 Alternative Voluntary Redevelopment Program (collectively, “Stay”); and

13 **WHEREAS**, on August 17, 2011, the Supreme Court modified the Stay such that the
14 Stay no longer affected California Health and Safety Code Sections 34167.5 through 34169.5, in
15 addition to California Health and Safety Code Sections 34161 through 34167, or California Health
16 and Safety Code Section 34194(b)(2); and

17 **WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the
18 Legal Action, upholding AB 1X 26, invalidating AB 1X 27, extending certain statutory deadlines
19 under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment
20 agencies throughout the State of California, effective February 1, 2012; and

21 **WHEREAS**, Health and Safety Code section 34176 provides that the City may elect
22 to retain the housing assets and functions previously performed by the Agency, but if the City does
23 not so elect, all rights, powers, assets, liabilities, duties, and obligations associated with the housing
24 activities of the Agency shall be transferred as follows: (1) where there is no housing authority in the
25 territorial jurisdiction of the Agency, to the State of California Department of Housing and
26 Community Development; (2) where there is one local housing authority in the territorial jurisdiction
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of the Agency, to that housing authority; (3) where there is more than one local housing authority in the territorial jurisdiction of the Agency, to the local housing authority selected by the City; and

WHEREAS, the City Council permitted the Colton Housing Authority ("Authority") to transact business and exercise power inferred on the Authority under the Housing Authorities Law (Health & Saf. Code, § 34200 et seq.) by Resolution No. R-28-11 on March 15, 2011; and

WHEREAS, the Authority is not the only local housing authority within the territorial jurisdiction of the Agency; and

WHEREAS, the City desires to designate the Authority as the appropriate entity to assume the housing functions of the former Agency; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF COLTON DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

Section 1. **Recitals.** The Recitals preceding this Resolution are true and correct and are incorporated into this Resolution.

Section 2. **CEQA Compliance.** The determination and election made in this Resolution do not commit the City to any action that may have a significant effect on the environment. As a result, such approvals do not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

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1 **Section 3. Election Not to Retain Housing Assets and Functions; Selection of**
2 **Transferee of Agency Housing Assets and Functions.** In accordance with Health and Safety Code
3 section 34176, and based on the Recitals set forth above, the City Council hereby elects not to retain
4 the housing assets and functions previously performed by the Redevelopment Agency for the City of
5 Colton. Upon dissolution of the Redevelopment Agency for the City of Colton pursuant to Part 1.85
6 of Division 24 of the California Health and Safety Code, and except as otherwise provided under AB
7 1X 26, all rights, powers, assets, liabilities, duties, and obligations associated with the housing
8 activities of the Redevelopment Agency for the City of Colton shall be transferred in accordance with
9 Health and Safety Code sections 34176 and 34181 to the Colton Housing Authority.

10 **Section 4. Implementation.** The City Council hereby authorizes and directs the City
11 Manager to take any action and sign any documents necessary to carry out the purposes of this
12 Resolution, including but not limited to notifying the County of San Bernardino Auditor-Controller,
13 the Controller of the State of California, and the California Department of Finance of the adoption of
14 this Resolution in accordance with AB 1X 26.

15 **Section 5. Severability.** If any provision of this Resolution or the application of any such
16 provision to any person or circumstance is held invalid, such invalidity shall not affect other
17 provisions or applications of this Resolution that can be given effect without the invalid provision or
18 application, and to this end the provisions of this Resolution are severable. The City Council declares
19 that the City Council would have adopted this Resolution irrespective of the invalidity of any
20 particular portion of this Resolution.

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22 **Section 6. Certification.** The City Clerk shall certify to the adoption of this Resolution.

23 **Section 7. Effective Date.** This Resolution shall become effective immediately upon its
24 adoption.

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2 **APPROVED AND ADOPTED THIS** 23rd day of January, 2012.
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4 Sarah S. Zamora, Mayor

5 ATTEST:

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7 Eileen C. Gomez, City Clerk, CMC
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1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss.
3 CITY OF COLTON)

4 I, EILEEN C. GOMEZ, City Clerk of the City of Colton, do hereby certify that the
5 foregoing Resolution No. R-XX-12 was duly and regularly adopted by the City Council of the City of
6 Colton at a special meeting thereof on the 23rd day of January, 2012 and that the same was passed
7 and adopted by the following vote, to wit:

8 AYES:

9 NOES:

10 ABSENT:

11 ABSTAIN:
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14 Eileen C. Gomez, City Clerk, CMC
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